

Revised 03/06 WDNY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**

15W922A

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Joseph Jackson 05B1287

2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. B. Gokey

4. ALBERT PRACK

2. T. Petrie

5. _____

3. J. Colvin

6. _____

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Joseph Jackson 05B1287

Present Place of Confinement & Address: SouthPort Correctional Facility

354 Hunter PO Box 2000, Pine City, New York 14871-2000

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: B. Gokey
 (If applicable) Official Position of Defendant: CORRECTIONS OFFICER
 (If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity
 Address of Defendant: FIVE POINTS CORRECTIONAL FACILITY, Box 400,
State Route 96, ROMULUS, New York 14541.

Name of Defendant: T. Petrie
 (If applicable) Official Position of Defendant: CORRECTIONS OFFICER
 (If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity
 Address of Defendant: FIVE POINTS CORRECTIONAL FACILITY, Box 400,
State Route 96, ROMULUS, New York 14541.

Name of Defendant: J. Colvin
 (If applicable) Official Position of Defendant: Deputy Superintendent of Security
 (If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity
 Address of Defendant: FIVE POINTS CORRECTIONAL FACILITY, Box 400,
State Route 96, ROMULUS, New York 14541.

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:
 Plaintiff(s): _____
 Defendant(s): _____
2. Court (if federal court, name the district; if state court, name the county): _____
3. Docket or Index Number: _____
4. Name of Judge to whom case was assigned: _____

pg. 2 <continued>

Defendant Name: ALBERT PRACK
Official Position of Defendant: Director of Special
Housing Unit

Defendant is sued in individual and official capacity
Address of Defendant: 1220 Washington Avenue, Building
#2, ALBANY, New York 12226-2050.

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

_____ Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes _____ No ☒

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

5. STATEMENT OF CLAIM

1.) ON OCTOBER 21, 2012, there WAS A RIOT IN Five Points Correctional Facility Between INMates And Corrections OFFICERS.

2.) A Corrections OFFICER, <after the incident was over and All inmates involved was subdued>, picked Plaintiff OFF OF the fence [Plaintiff was ON the fence Because after the incident was over, EVERYONE was told to Line up against the fence and to put their hands ON it.] and told A Sergeant that his Lip was Bleeding.

3.) Plaintiff was then told to place his hands behind His Back. Plaintiff argued with OFFICER Saying His Lips Were NOT Busted OR Bleeding, the Sergeant Looked at it and Said take Him in any way. Plaintiff was then placed in Flex cuffs and was punched in the Rib by the OFFICER ON His Right Side, then the OFFICER ON His Left Side pulled out His baton and Hit Plaintiff in His Ribs, Plaintiff Screamed "I didn't do anything", in Fear FOR -

2.

-His life knowing the incident that just occurred.

4.) The OFFICERS dragged Plaintiff all the way to the gym while hitting him in mid section and back area. There were approximately 10 other inmates in that gym area.

5.) After the yard was closed and secured, all the inmates in the gym were escorted to the draft processing area where we were strip frisked, searched, and tortured.

6.) Plaintiff, along with other inmates, was placed in a holding pen next to the shower in the draft processing area and forced to listen to each inmate (already injured and in a different holding pen from ours) be taken into the shower room one by one and brutally beaten while they screamed for help and yelled for their lives.

For approximately four to five hours, we were forced to listen to -

3.

- this torture as we were in Flex Cuffs so tight one guy had a heart attack due to the poor circulation in our wrists.

7.) Plaintiff was later escorted to the Special Housing Unit of the facility at approximately 4:30 a.m.

8.) Plaintiff received a Misbehavior Report four days later stating he assaulted officer B. Gokey while officer T. Petrie subdued him.

9.) Plaintiff's hearing started on 10/30/12 (9 days after the incident) and ended on 11/9/12 (19 days after the incident, 10 days after the hearing started).

10.) Plaintiff was sentenced to 40 months SHU time and 36 months loss of good time by defendant J. Colvin. Plaintiff appealed.

11.) Once Plaintiff arrived to Southport Correctional Facility SHU, he was being treated immediately, for -

4.

- High Blood Pressure, Taken to outside Hospital for Rib and Kidney diagnosis, and He was seeing psyche counselors taking regular psyche therapy counseling.

12.) On January 15, 2013, defendant Albert PRACK modified Plaintiff's Misbehavior Report Appeal to 24 months SHU and 24 months Loss of Good time. Plaintiff appealed this decision by asking for a Reconsideration.

13.) On February 4, 2013, Plaintiff filed an Article 78 challenging eleven issues.

14.) On August 23, 2013, the ALBANY Supreme Court dismissed the Plaintiff's Article 78 for failing to serve the Respondents. [When a petition is dismissed for failing to serve a Respondent the petitioner has 15 days to refile the petition if he wants it to be heard.].

15.) On August 19, 2013 Plaintiff resubmitted a \$15 (Fifteen dollar) Filing Fee so his petition can be -

5.

-heard (In which the courts accepted, See Exhibit A). Plaintiff Re-Submitted the petition and its Exhibits ON August 27, 2013.

16.) ON January 13, 2015, Plaintiff did NOT Receive any acknowledgment OF His petition. He didn't know who His judge was, nor did He Receive any Notice FROM the Respondent. So He Filed for Summary Judgment With the Albany County Supreme Court.

17.) ON April 11, 2015, A different COURT, in TROY, New York abused its discretion and denied Summary Judgment.

18.) Plaintiff was confused by this Response Because he NEVER Sent A petition to this court, so He wrote to the court in TROY, New York to find out How they got involved in this proceeding. NO Response.

Plaintiff was denied access to the courts, False imprisonment,

6.

- Excessive Force, Due Process,
and medical treatment were denied.

A. FIRST CLAIM: On (date of the incident) OCTOBER 21, 2012

defendant (give the **name and position held** of **each defendant** involved in this incident) Corrections

Officer B. Gokey, T. Petrie, Deputy of Security J. Calvin,
Director of Special Housing Unit Albert PRACK

did the following to me (briefly state what each defendant named above did): Defendants B. Gokey
wrote a false Misbehavior Report & T. Petrie Endorsed it, This
led to Plaintiff's False imprisonment. Defendant J. Calvin convicted
Plaintiff and Sentenced Him to an UNLAWFUL CONFINEMENT OF
40 months SHU and 36 months Loss of good time Without The
showing of any guilt. Defendant Albert PRACK found wrong
doing on Defendant J. Calvin's Behalf and still kept Plaintiff
UNLAWFULLY CONFINED to a modified time of 24 months SHU and
24 months Loss of good time.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Denial Access to the courts, False
Imprisonment, Excessive Force, Due Process, Denial of Medical treatment.

The relief I am seeking for this claim is (briefly state the relief sought): Expungement of Misbehavior
Report, \$2,000,000 in Damages (Punitive and Compensatory), Injunction
to NEVER be sent to Five Points C.F. again, and Res

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? Modification

Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? Denial of Article
7B.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) _____

defendant (give the **name and position held** of **each defendant** involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

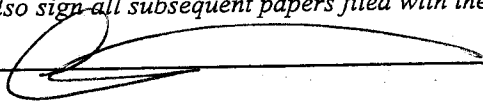
Expungement OF Misbehavior Report, \$2,000,000 (Two Million Dollars)
 IN Damages (Punitive and Compensatory), Injunction to NEVER
 be Sent to Five Points C.F. EVER again. This is including
 \$1,000 A day For Everyday Plaintiff Spent UNlawfully Confined and loss of privileges.

Do you want a jury trial? Yes ☒ No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10-20-15
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*



Signature(s) of Plaintiff(s)

EXHIBIT A

DENIAL OF ACCESS TO THE COURTS

OFFICE OF THE ALBANY COUNTY CLERK

CLERK OF SUPREME AND COUNTY COURTS

16 EAGLE STREET, RM. 128, ALBANY, NY 12207-1077

THOMAS G. CLINGAN
ALBANY COUNTY CLERK.



LYNN M. VAILLANCOURT
GERALDINE M. GOULD
FIRST DEPUTY COUNTY CLERKS

MARLENE J. DION
DEPUTY COUNTY CLERK

DATE: 11/6/13

Dear Sir or Madam:

We are unable to process the enclosed document, and are returning it to you for further information (please see items checked below.) All fees noted are set by State law and are required to be collected by us. Please return the document with your check payable to "Albany County Clerk."

___ Please remit \$5.00 for every two years of records that you would like searched, for each name you want searched, in each category you want searched.

___ The fee for a copy of a divorce decree is \$5.00. Your request needs to have your signature witnessed by a Notary Public or Commissioner of Deeds, due to the confidential nature of these records. These are not a public record and can only be requested by one of the parties or their attorneys.

___ Please submit the Judgment of Divorce, supporting papers, and a Certificate of Dissolution. The fee is \$5.00 to file the Certificate of Dissolution.

___ Please resubmit this document(s) with the correct fee of \$ ____.

___ We are required to have *original signature* (Not photocopies) on all documents, in order for us to then be able to certify in the future that copies we provide are copies of the original document.

___ The fee to issue a Certificate of Conviction is \$5.00.

___ The fee for a certified copy of the document you asked for is \$ ____.

___ Regular copies are \$.65 per page with the minimum of \$1.30.

___ We have checked our records for a poor person order and the fees are not waived. The fee for copies is ____.

Please be advised I've enclosed a copy of your poor person order as well as a receipt. Thank you.

Please call us at (518) 487-5120 if you have any questions on why your request was returned to you, or for any other information concerning the County Clerk's office.

STATE OF NEW YORK
COUNTY OF ALBANY SUPREME COURT

In the Matter of the Application of

ORDER

JOSEPH JACKSON

INDEX # 997-13

DIN # 05-B-1287

for Poor Person Status pursuant to
CPLR §1101(f).

ORI # NY001035J

Nature of Action or Proceeding: Article 78

The above-named inmate under sentence for conviction of a crime and having made application pursuant to CPLR §1101(f) for Poor Person status,

It is hereby ORDERED that this application is:

- ☐ DENIED, and all applicable filing fees must be paid by the inmate within 120 days of the date of this order, or else the action/proceeding shall be deemed dismissed without further order of the court.
- ☒ GRANTED, and the inmate is directed to pay a reduced filing fee of \$ 15.00 and he/she shall be liable for no other fees in the action/proceeding before this court unless a recovery by judgment or by settlement is had in his/her favor in which event the court may direct him/her to pay out of the recovery all or part of such fees as are hereby forgiven.

It is further ORDERED:

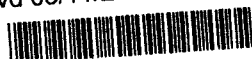
- ☒ That the inmate IS NOT REQUIRED to make any initial payment to the court of a portion of the reduced filing fee. The full amount of the reduced filing fee shall be reported to the superintendent or other public official in charge of the facility where the inmate is confined, who shall collect such amount from the inmate in the same manner as mandatory surcharges are collected pursuant to section 60.35(5) of the Penal Law.
- ☐ That the inmate IS REQUIRED to make an initial payment of \$ _____, of the reduced filing fee. Once such initial payment is fully received by the court, the amount of the difference between such initial payment and the reduced filing fee, or \$ _____, shall be assessed as an outstanding obligation of the inmate and reported to the superintendent or other public official in charge of the facility where the inmate is confined, who shall collect such amount from the inmate in the same manner as mandatory surcharges are collected pursuant to section 60.35(5) of the Penal Law.

Dated: 3/4, 2013
at Albany, New York

Copies:

CO

Albany County Clerk
Document Number 11349559
Rcvd 03/11/2013 9:06:39 AM



Gerald W. Connolly
Acting Justice of the Supreme Court
Southpt
FACILITY
Hon. Gerald W. Connolly
Acting Supreme Court Justice
3-11-13

Search Date: 11/6/2013 9:55 AM

Instrument Type: Civil Index Number

Filing Date: 02/20/2013 2:53 PM

Document Number: 11338481

Related Names:

JACKSON JOSEPH 05-B-1287 Plaintiff

NYS COMMISSIONER OF CORRECTION SERV Defendant

Document Location:

Civil Flat File Area - Year:2013 Civil Index Numbe:997

Type Of Case:- Type of Case:Spec. Proc

Related Documents:

- 02/20/2013 Civil Filing
 - UNSIGNED ORDER TO SHOW CAUSE
- 03/11/2013 Civil Filing
 - ORDER TO SHOW CAUSE
 - CONNOLLY
 - AJSC
 - ORDER
 - CONNOLLY
 - AJSC
 - GRANTED
 - AFFIDAVIT IN SUPPORT OF APPLICATION FOR WAIVER OF OR REDUCED FILING FEE
 - AUTHORIZATION
 - EXHIBITS
- 03/21/2013 Civil Filing
 - RJJ
- 07/02/2013 Civil Filing
 - RESPONSE FOR AN EXTENSION TO RESPONSE
- 08/16/2013 Civil Filing
 - AMENDING EXHIBITS
 - AFFIDAVIT OF SERVICE
 - VERIFICATION
 - 3 LETTER
 - REQUEST FOR AN EXTENTION
 - RJJ
 - NOTICE TO ADMIT
 - OPPOSITION TO MOTION
 - AFFIDAVIT IN OPPOSITION
 - PETITION
 - MEMO OF LAW
 - NOTICE OF MOTION
- 08/19/2013 Civil Filing
 - RECEIPT-REDUCED FILING FEE
- 08/23/2013 Civil Filing
 - DECISION & JUDGMENT JSC MERCURE
- 08/27/2013 Civil Filing
 - PETITION
 - AMENDING GROUND FOR PETITON
 - EXHIBITS

Joseph Jackson OSB1237
SouthPort C.F.,
P.O. Box 2000
Pine City, N.Y. 14871-2000

U.S. District Court
100 State St.
Rochester, N.Y. 14614

OCTOBER 20, 2015

Sir/Ma'am.

Enclosed is A Copy and ~~the~~
Original of this civil Suite for the court and 1
Copy for Each Defendant.

Thank You for Your Time!

SOUTHPORT Correctional Facility

POB 2000

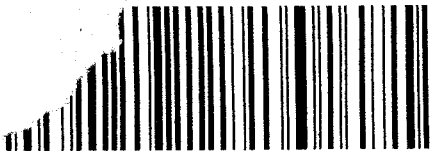
Pine City, N.Y. 14871-2000

J. Jackson

OSB1287

TOP OF ENVELOPE TO THE RIGHT
ADDRESS, FOLD AT DOTTED LINE

REGISTERED MAILTM

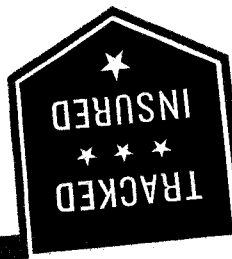


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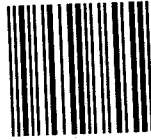
U.S. DISTRICT COURT
WESTERN DISTRICT
111 Kennedy
100 S

Rochester,

940



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N.Y. 14614

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